IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

H.C.P.No.546 of 2006

Neelavathi .. Petitioner

-vs-

1.State of Tamil Nadu
Rep. by its Secretary to Government
Prohibition and Excise Department,
Fort St.George,
Chennai 600 009.

2.The District Magistrate and
District Collector of Vellore District
Vellore District
Vellore. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the entire records, related to the petitioner's detention under Tamil Nadu Act 14 of 1982 vide detention order, dated 11.03.2006 on the file of the second respondent herein made in proceedings No.C3.D.O.No.24/2006, quash the same as illegal and consequently direct the respondents herein to produce the said petitioner's son namely Shankar (a) Senthilkumar before this Court and set the petitioner's husband at liberty from detention, now detained in Central Prison, Vellore.

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For Petitioner : Mr.C.C.Chellappan

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the mother of the detenu by name Shankar @ Senthilkumar, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 11.03.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu was received by the Government on 18.04.2006 and the remarks were called for on 20.04.2006 and the representation of the detenu was received from the Government on 24.04.2006 and the parawar remarks were called for from the Sponsoring authority on the same day i.e. on 24.04.2006 and the remarks were received from the sponsoring authority on 18.05.2006. Thereafter, the reminder was sent on 10.05.2006 and the remarks were received by the Government on 22.05.2006 and the File was submitted on 23.05.2006 and the same was dealt with by the Under Secretary on 23.05.2006 and by the Deputy Secretary on the same day i.e. on 23.05.2006 and finally, the Minister for Prohibition and Excise passed orders on 23.05.2006. The rejection letter was prepared on 24.05.2006 and the same was sent to the detenu on 26.05.2006 and served to him on 03.06.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 24.04.2006, the remarks were received from the sponsoring authority by the Collectorate only on 18.05.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

gms

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Secretary to Government
State of Tamil Nadu
Prohibition and Excise Department,
Fort St.George, Chennai 600 009.

2.The District Magistrate and
District Collector of Vellore District
Vellore District,Vellore.

3. The Superintendent,
Central Prison, Vellore.
(in duplicate for communication to detenu)

4. The Secretary to Government,
Public (Law and order)
Fort St George, Chennai 9.

5. The Public Prosecutor,
High Court, Madras.

H.C.P.No.546 of 2006

PLI(CO)
SR/30.8.2006

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